



# House of Representatives

## File No. 769

General Assembly

February Session, 2016

**(Reprint of File No. 60)**

Substitute House Bill No. 5247  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 30, 2016

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE  
AUDITORS OF PUBLIC ACCOUNTS AND REPEALING A PROVISION  
CONCERNING STATE AGENCY REPORTING OF CERTAIN  
CONTRACTOR INFORMATION.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (e) of section 2-90 of the 2016 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (e) (1) If the Auditors of Public Accounts discover, or if it should  
5 come to their knowledge, that any unauthorized, illegal, irregular or  
6 unsafe handling or expenditure of state funds or quasi-public agency  
7 funds or any breakdown in the safekeeping of any resources of the  
8 state or a quasi-public agency has occurred or is contemplated, they  
9 shall forthwith [present] report the facts to the Governor, the State  
10 Comptroller, the clerk of each house of the General Assembly, the  
11 Legislative Program Review and Investigations Committee and the  
12 Attorney General, [.] except if a matter reported to the Auditors of  
13 Public Accounts pursuant to section 4-33a, as amended by this act, is

14 still under investigation by a state or quasi-public agency, the Auditors  
15 of Public Accounts may allow the agency reasonable time to conduct  
16 such investigation prior to the auditors reporting the matter to said  
17 persons and committee. (2) If the Auditors of Public Accounts decide  
18 to delay reporting such matter, the auditors shall immediately notify  
19 the Attorney General of such decision. (3) Any Auditor of Public  
20 Accounts neglecting to make such a report required under subdivision  
21 (1) of this subsection, or any agent of the auditors neglecting to report  
22 to the Auditors of Public Accounts any such matter discovered by him  
23 or coming to his knowledge shall be fined not more than one hundred  
24 dollars or imprisoned not more than six months or both.

25 Sec. 2. Section 4-33a of the general statutes is repealed and the  
26 following is substituted in lieu thereof (*Effective from passage*):

27 (a) All boards of trustees of state institutions, state department  
28 heads, boards, commissions, other state agencies responsible for state  
29 property and funds and quasi-public agencies, as defined in section 1-  
30 120, shall promptly notify the Auditors of Public Accounts and the  
31 Comptroller of any unauthorized, illegal, irregular or unsafe handling  
32 or expenditure of state or quasi-public agency funds or breakdowns in  
33 the safekeeping of any other resources of the state or quasi-public  
34 agencies or contemplated action to do the same within their  
35 knowledge. In the case of such notification to the Auditors of Public  
36 Accounts, the auditors may permit aggregate reporting in a manner  
37 and at a schedule determined by the auditors.

38 (b) If the Auditors of Public Accounts determine that any such state  
39 agency or quasi-public agency has failed to notify them as required  
40 under subsection (a) of this section, the auditors shall report such  
41 failure to the joint standing committee of the General Assembly having  
42 cognizance of matters relating to government administration in  
43 accordance with the provisions of section 11-4a not later than thirty  
44 days after the auditors make such determination. Said committee may  
45 hold a public hearing on such report and require the head of any such  
46 state agency or quasi-public agency to appear before the committee at

47 such hearing to explain the reasons for the agency's failure to comply  
48 with the requirement to notify the Auditors of Public Accounts in  
49 accordance with this section.

50 Sec. 3. Section 4-215 of the general statutes is repealed and the  
51 following is substituted in lieu thereof (*Effective July 1, 2016*):

52 Each personal service agreement [executed on or after July 1, 1994,  
53 and] having a cost of more than twenty thousand dollars but not more  
54 than fifty thousand dollars and a term of not more than one year shall  
55 be based on competitive negotiation or competitive quotations, unless  
56 the state agency purchasing the personal services determines that a  
57 sole source purchase is required and applies to the secretary for a  
58 waiver from such requirement and the secretary grants the waiver.  
59 Not later than March 1, 1994, the secretary shall adopt guidelines for  
60 determining the types of services that may qualify for such waivers.  
61 The qualifying services shall [include, but not] be limited to [,] (1)  
62 services for which the cost to the state of a competitive selection  
63 procedure would outweigh the benefits of such procedure, as  
64 documented by the state agency, (2) proprietary services, (3) services  
65 to be provided by a contractor mandated by the general statutes or a  
66 public or special act, and (4) emergency services, including services  
67 needed for the protection of life or health. The secretary shall  
68 immediately notify the Auditors of Public Accounts of any application  
69 that the secretary receives for approval of a sole source purchase of  
70 audit services and give the auditors an opportunity to review the  
71 application and advise the secretary as to whether such audit services  
72 are necessary and, if so, could be provided by said auditors.

73 Sec. 4. Section 1-101pp of the general statutes is repealed and the  
74 following is substituted in lieu thereof (*Effective October 1, 2016*):

75 Any commissioner, deputy commissioner, state agency or quasi-  
76 public agency head or deputy, or person in charge of state agency  
77 procurement, [and] contracting or human resources who has  
78 reasonable cause to believe that a person has violated the provisions of

79 the Code of Ethics for Public Officials set forth in part I of this chapter  
80 or any law or regulation concerning ethics in state contracting shall  
81 report such belief to the Office of State Ethics, which may further  
82 report such information to the [Auditor] Auditors of Public Accounts,  
83 the Chief State's Attorney or the Attorney General.

84 Sec. 5. Subdivision (8) of section 4-37f of the general statutes is  
85 repealed and the following is substituted in lieu thereof (*Effective*  
86 *October 1, 2016*):

87 (8) A foundation which has in any of its fiscal years receipts and  
88 earnings from investments totaling one hundred thousand dollars per  
89 year or more, or a foundation established for the principal purpose of  
90 coordinated emergency recovery that operated in response to an  
91 eligible incident, as defined in section 4-37r, during the fiscal year or  
92 with funds that exceeded one hundred thousand dollars in the  
93 aggregate, shall have completed on its behalf for such fiscal year a full  
94 audit of the books and accounts of the foundation. A foundation which  
95 has receipts and earnings from investments totaling less than one  
96 hundred thousand dollars in each fiscal year during any three of its  
97 consecutive fiscal years beginning October 1, 1986, shall have  
98 completed on its behalf for the third fiscal year in any such three-year  
99 period a full audit of the books and accounts of the foundation, unless  
100 such foundation was established for the principal purpose of  
101 coordinated emergency recovery and had completed on its behalf such  
102 an audit for any year in any such three-year period. For each fiscal year  
103 in which an audit is not required pursuant to this subdivision financial  
104 statements shall be provided by the foundation to the executive  
105 authority of the state agency. Each audit under this subdivision shall  
106 be (A) conducted [(A)] by an independent certified public accountant  
107 or, if requested by the state agency with the consent of the foundation,  
108 the Auditors of Public Accounts, [and] (B) conducted in accordance  
109 with generally accepted auditing standards, and (C) completed, and a  
110 copy of such audit submitted, in accordance with this section not later  
111 than six months after the end of the applicable fiscal year. The audit  
112 report shall include financial statements, a management letter and an

113 audit opinion which address the conformance of the operating  
114 procedures of the foundation with the provisions of sections 4-37e to 4-  
115 37i, inclusive, and recommend any corrective actions needed to ensure  
116 such conformance. Each audit report shall disclose the receipt or use  
117 by the foundation of any public funds in violation of said sections or  
118 any other provision of the general statutes. The foundation shall  
119 provide a copy of each audit report completed pursuant to this  
120 subdivision to the executive authority of the state agency and the  
121 Attorney General. Each financial statement required under this  
122 subdivision shall include, for the fiscal year to which the statement  
123 applies, the total receipts and earnings from investments of the  
124 foundation and the amount and purpose of each receipt of funds by  
125 the state agency from the foundation. As used in this subdivision,  
126 "fiscal year" means any twelve-month period adopted by a foundation  
127 as its accounting year;

128 Sec. 6. Subsection (b) of section 4-37g of the general statutes is  
129 repealed and the following is substituted in lieu thereof (*Effective*  
130 *October 1, 2016*):

131 (b) In the case of an audit required pursuant to section 4-37f, as  
132 amended by this act, that was not conducted by the Auditors of Public  
133 Accounts, the executive authority and chief financial official of the  
134 state agency shall review the audit report received pursuant to said  
135 section and, upon such review, the executive authority shall sign a  
136 letter indicating that he has reviewed the audit report and transmit a  
137 copy of the letter and report to the Auditors of Public Accounts. If such  
138 audit report indicates that (1) funds for deposit and retention in state  
139 accounts have been deposited and retained in foundation accounts, or  
140 (2) state funds, personnel, services or facilities may have been used in  
141 violation of sections 4-37e to 4-37i, inclusive, or any other provision of  
142 the general statutes, the Auditors of Public Accounts may conduct a  
143 full audit of the books and accounts of the foundation pertaining to  
144 such funds, personnel, services or facilities, in accordance with the  
145 provisions of section 2-90, as amended by this act. For the purposes of  
146 such audit, the Auditors of Public Accounts shall have access to the

147 working papers compiled by the certified public accountant in the  
148 preparation of the audit conducted pursuant to section 4-37f, as  
149 amended by this act, which are relevant to such use of state funds,  
150 personnel, services or facilities in violation of the provisions of sections  
151 4-37e to 4-37i, inclusive, or any other provision of the general statutes.  
152 If the audit required pursuant to section 4-37f, as amended by this act,  
153 was not conducted, the Auditors of Public Accounts may conduct a  
154 full audit of the books and accounts of the foundation, in accordance  
155 with the provisions of section 2-90, as amended by this act.

156 Sec. 7. Subdivision (3) of subsection (c) of section 10a-109n of the  
157 general statutes is repealed and the following is substituted in lieu  
158 thereof (*Effective from passage*):

159 (3) The university shall thereafter give notice to those so  
160 prequalified by the university pursuant to subdivision (2) of this  
161 section of the time and place where the public letting shall occur and  
162 shall include in such notice such information of the work required as  
163 appropriate. Each bid or proposal shall be kept sealed until opened  
164 publicly at the time and place as set forth in the notice soliciting such  
165 bid or proposal. The university shall not award any construction  
166 contract, including, but not limited to, any total cost basis contract,  
167 after public letting, except to the responsible qualified contractor,  
168 submitting the lowest bid or proposal in compliance with the bid or  
169 proposal requirements of the solicitation document, [. The] except the  
170 university may [, however,] (A) waive any informality in a bid or  
171 proposal, and [may] (B) either reject all bids or proposals and again  
172 advertise for bids or proposals or interview at least three responsible  
173 qualified contractors and negotiate and enter into with any one of such  
174 contractors that construction contract which is both fair and reasonable  
175 to the university.

176 Sec. 8. Section 2-90b of the general statutes is repealed and the  
177 following is substituted in lieu thereof (*Effective from passage*):

178 The Auditors of Public Accounts shall [annually] biennially conduct

179 an audit of reimbursements made from the Bradley Enterprise Fund to  
180 the Department of Emergency Services and Public Protection to cover  
181 the cost of Troop W operations carried out in accordance with the  
182 memorandum of understanding between the Department of  
183 Emergency Services and Public Protection and the Department of  
184 Transportation.

185 Sec. 9. Section 4-61dd of the 2016 supplement to the general statutes  
186 is repealed and the following is substituted in lieu thereof (*Effective*  
187 *October 1, 2016*):

188 (a) Any person having knowledge of any matter involving  
189 corruption, unethical practices, violation of state laws or regulations,  
190 mismanagement, gross waste of funds, abuse of authority or danger to  
191 the public safety occurring in any state department or agency, [or] any  
192 quasi-public agency, as defined in section 1-120, or any Probate Court,  
193 or any person having knowledge of any matter involving corruption,  
194 violation of state or federal laws or regulations, gross waste of funds,  
195 abuse of authority or danger to the public safety occurring in any large  
196 state contract, may transmit all facts and information in such person's  
197 possession concerning such matter to the Auditors of Public Accounts.  
198 The Auditors of Public Accounts shall review such matter and report  
199 their findings and any recommendations to the Attorney General.  
200 Upon receiving such a report, the Attorney General shall make such  
201 investigation as the Attorney General deems proper regarding such  
202 report and any other information that may be reasonably derived from  
203 such report. Prior to conducting an investigation of any information  
204 that may be reasonably derived from such report, the Attorney  
205 General shall consult with the Auditors of Public Accounts concerning  
206 the relationship of such additional information to the report that has  
207 been issued pursuant to this subsection. Any such subsequent  
208 investigation deemed appropriate by the Attorney General shall only  
209 be conducted with the concurrence and assistance of the Auditors of  
210 Public Accounts. At the request of the Attorney General or on their  
211 own initiative, the auditors shall assist in the investigation.

212 (b) (1) The Auditors of Public Accounts may reject any complaint  
213 received pursuant to subsection (a) of this section if the Auditors of  
214 Public Accounts determine one or more of the following:

215 (A) There are other available remedies that the complainant can  
216 reasonably be expected to pursue;

217 (B) The complaint is better suited for investigation or enforcement  
218 by another state agency;

219 (C) The complaint is trivial, frivolous, vexatious or not made in  
220 good faith;

221 (D) Other complaints have greater priority in terms of serving the  
222 public good;

223 (E) The complaint is not timely or is too long delayed to justify  
224 further investigation; or

225 (F) The complaint could be handled more appropriately as part of  
226 an ongoing or scheduled regular audit.

227 (2) If the Auditors of Public Accounts reject a complaint pursuant to  
228 subdivision (1) of this subsection, the Auditors of Public Accounts  
229 shall provide a report to the Attorney General setting out the basis for  
230 the rejection.

231 (3) If at any time the Auditors of Public Accounts determine that a  
232 complaint is more appropriately investigated by another state agency,  
233 the Auditors of Public Accounts shall refer the complaint to such  
234 agency. The investigating agency shall provide a status report  
235 regarding the referred complaint to the Auditors of Public Accounts  
236 upon request.

237 (c) Notwithstanding the provisions of section 12-15, the  
238 Commissioner of Revenue Services may, upon written request by the  
239 Auditors of Public Accounts, disclose return or return information, as  
240 defined in section 12-15, to the Auditors of Public Accounts for



241 purposes of preparing a report under subsection (a) or (b) of this  
242 section. Such return or return information shall not be published in  
243 any report prepared in accordance with subsection (a) or (b) of this  
244 section, and shall not otherwise be redisclosed, except that such  
245 information may be redisclosed to the Attorney General for purposes  
246 of an investigation authorized by subsection (a) of this section. Any  
247 person who violates the provisions of this subsection shall be subject to  
248 the provisions of subsection (g) of section 12-15.

249 (d) The Attorney General may summon witnesses, require the  
250 production of any necessary books, papers or other documents and  
251 administer oaths to witnesses, where necessary, for the purpose of an  
252 investigation pursuant to this section or for the purpose of  
253 investigating a suspected violation of subsection (a) of section 4-275  
254 until such time as the Attorney General files a civil action pursuant to  
255 section 4-276. Upon the conclusion of the investigation, the Attorney  
256 General shall where necessary, report any findings to the Governor, or  
257 in matters involving a Probate Court, to the Probate Court  
258 Administrator, or in matters involving criminal activity, to the Chief  
259 State's Attorney. In addition to the exempt records provision of section  
260 1-210, the Auditors of Public Accounts and the Attorney General shall  
261 not, after receipt of any information from a person under the  
262 provisions of this section or sections 4-276 to 4-280, inclusive, disclose  
263 the identity of such person without such person's consent unless the  
264 Auditors of Public Accounts or the Attorney General determines that  
265 such disclosure is unavoidable, and may withhold records of such  
266 investigation, during the pendency of the investigation.

267 (e) (1) No state officer or employee, as defined in section 4-141, no  
268 quasi-public agency officer or employee, no officer or employee of a  
269 large state contractor and no appointing authority shall take or  
270 threaten to take any personnel action against any state or quasi-public  
271 agency employee or any employee of a large state contractor in  
272 retaliation for (A) such employee's or contractor's disclosure of  
273 information to (i) an employee of the Auditors of Public Accounts or  
274 the Attorney General under the provisions of subsection (a) of this

275 section; (ii) an employee of the state agency or quasi-public agency  
276 where such state officer or employee is employed; (iii) an employee of  
277 a state agency pursuant to a mandated reporter statute or pursuant to  
278 subsection (b) of section 17a-28; (iv) an employee of the Probate Court  
279 where such employee is employed; or [(iv)] (v) in the case of a large  
280 state contractor, an employee of the contracting state agency  
281 concerning information involving the large state contract; or (B) such  
282 employee's testimony or assistance in any proceeding under this  
283 section.

284 (2) (A) Not later than ninety days after learning of the specific  
285 incident giving rise to a claim that a personnel action has been  
286 threatened or has occurred in violation of subdivision (1) of this  
287 subsection, a state or quasi-public agency employee, an employee of a  
288 large state contractor or the employee's attorney may file a complaint  
289 against the state agency, quasi-public agency, Probate Court, large  
290 state contractor or appointing authority concerning such personnel  
291 action with the Chief Human Rights Referee designated under section  
292 46a-57. Such complaint may be amended if an additional incident  
293 giving rise to a claim under this subdivision occurs subsequent to the  
294 filing of the original complaint. The Chief Human Rights Referee shall  
295 assign the complaint to a human rights referee appointed under  
296 section 46a-57, who shall conduct a hearing and issue a decision  
297 concerning whether the officer or employee taking or threatening to  
298 take the personnel action violated any provision of this section. The  
299 human rights referee may order a state agency, [or] quasi-public  
300 agency or Probate Court to produce (i) an employee of such agency,  
301 [or] quasi-public agency or Probate Court to testify as a witness in any  
302 proceeding under this subdivision, or (ii) books, papers or other  
303 documents relevant to the complaint, without issuing a subpoena. If  
304 such agency, [or] quasi-public agency or Probate Court fails to produce  
305 such witness, books, papers or documents, not later than thirty days  
306 after such order, the human rights referee may consider such failure as  
307 supporting evidence for the complainant. If, after the hearing, the  
308 human rights referee finds a violation, the referee may award the

309 aggrieved employee reinstatement to the employee's former position,  
310 back pay and reestablishment of any employee benefits for which the  
311 employee would otherwise have been eligible if such violation had not  
312 occurred, reasonable attorneys' fees, and any other damages. For the  
313 purposes of this subsection, such human rights referee shall act as an  
314 independent hearing officer. The decision of a human rights referee  
315 under this subsection may be appealed by any person who was a party  
316 at such hearing, in accordance with the provisions of section 4-183.

317 (B) The Chief Human Rights Referee shall adopt regulations, in  
318 accordance with the provisions of chapter 54, establishing the  
319 procedure for filing complaints and noticing and conducting hearings  
320 under subparagraph (A) of this subdivision.

321 (3) As an alternative to the provisions of subdivision (2) of this  
322 subsection: (A) A state or quasi-public agency employee who alleges  
323 that a personnel action has been threatened or taken may file an appeal  
324 not later than ninety days after learning of the specific incident giving  
325 rise to such claim with the Employees' Review Board under section 5-  
326 202, or, in the case of a state or quasi-public agency employee covered  
327 by a collective bargaining contract, in accordance with the procedure  
328 provided by such contract; or (B) an employee of a Probate Court or of  
329 a large state contractor alleging that such action has been threatened or  
330 taken may, after exhausting all available administrative remedies,  
331 bring a civil action in accordance with the provisions of subsection (c)  
332 of section 31-51m.

333 (4) In any proceeding under subdivision (2) or (3) of this subsection  
334 concerning a personnel action taken or threatened against any state or  
335 quasi-public agency employee or any employee of a large state  
336 contractor, which personnel action occurs not later than two years after  
337 the employee first transmits facts and information concerning a matter  
338 under subsection (a) of this section or discloses information under  
339 subdivision (1) of this subsection to the Auditors of Public Accounts,  
340 the Attorney General or an employee of a state agency, [or] quasi-  
341 public agency or Probate Court, as applicable, there shall be a

342 rebuttable presumption that the personnel action is in retaliation for  
343 the action taken by the employee under subsection (a) of this section or  
344 subdivision (1) of this subsection.

345 (5) If a state officer or employee, as defined in section 4-141, a quasi-  
346 public agency officer or employee, an officer or employee of a large  
347 state contractor or an appointing authority takes or threatens to take  
348 any action to impede, fail to renew or cancel a contract between a state  
349 agency and a large state contractor, or between a large state contractor  
350 and its subcontractor, in retaliation for the disclosure of information  
351 pursuant to subsection (a) of this section or subdivision (1) of this  
352 subsection to any agency listed in subdivision (1) of this subsection,  
353 such affected agency, contractor or subcontractor may, not later than  
354 ninety days after learning of such action, threat or failure to renew,  
355 bring a civil action in the superior court for the judicial district of  
356 Hartford to recover damages, attorney's fees and costs.

357 (f) Any employee of a state or quasi-public agency, [or] Probate  
358 Court or large state contractor, who is found by the Auditors of Public  
359 Accounts, the Attorney General, a human rights referee or the  
360 Employees' Review Board to have knowingly and maliciously made  
361 false charges under subsection (a) of this section, shall be subject to  
362 disciplinary action by such employee's appointing authority up to and  
363 including dismissal. In the case of a state or quasi-public agency  
364 employee, such action shall be subject to appeal to the Employees'  
365 Review Board in accordance with section 5-202, or in the case of state  
366 or quasi-public agency employees included in collective bargaining  
367 contracts, the procedure provided by such contracts.

368 (g) On or before September first, annually, the Auditors of Public  
369 Accounts shall submit, in accordance with the provisions of section 11-  
370 4a, to the clerk of each house of the General Assembly a report  
371 indicating the number of matters for which facts and information were  
372 transmitted to the auditors pursuant to this section during the  
373 preceding state fiscal year and the disposition of each such matter.

374 (h) Each contract between a state or quasi-public agency and a large  
375 state contractor shall provide that, if an officer, employee or  
376 appointing authority of a large state contractor takes or threatens to  
377 take any personnel action against any employee of the contractor in  
378 retaliation for such employee's disclosure of information to any  
379 employee of the contracting state or quasi-public agency or the  
380 Auditors of Public Accounts or the Attorney General under the  
381 provisions of subsection (a) or subdivision (1) of subsection (e) of this  
382 section, the contractor shall be liable for a civil penalty of not more  
383 than five thousand dollars for each offense, up to a maximum of  
384 twenty per cent of the value of the contract. Each violation shall be a  
385 separate and distinct offense and in the case of a continuing violation  
386 each calendar day's continuance of the violation shall be deemed to be  
387 a separate and distinct offense. The executive head of the state or  
388 quasi-public agency may request the Attorney General to bring a civil  
389 action in the superior court for the judicial district of Hartford to seek  
390 imposition and recovery of such civil penalty.

391 (i) Each state agency or quasi-public agency shall post a notice of the  
392 provisions of this section relating to state employees and quasi-public  
393 agency employees in a conspicuous place that is readily available for  
394 viewing by employees of such agency or quasi-public agency. Each  
395 Probate Court shall post a notice of the provisions of this section  
396 relating to Probate Court employees in a conspicuous place that is  
397 readily available for viewing by employees of such court. Each large  
398 state contractor shall post a notice of the provisions of this section  
399 relating to large state contractors in a conspicuous place which is  
400 readily available for viewing by the employees of the contractor.

401 (j) No person who, in good faith, discloses information in  
402 accordance with the provisions of this section shall be liable for any  
403 civil damages resulting from such good faith disclosure.

404 (k) As used in this section:

405 (1) "Large state contract" means a contract between an entity and a

406 state or quasi-public agency, having a value of five million dollars or  
407 more; and

408 (2) "Large state contractor" means an entity that has entered into a  
409 large state contract with a state or quasi-public agency.

410 (l) (1) No officer or employee of a state shellfish grounds lessee shall  
411 take or threaten to take any personnel action against any employee of a  
412 state shellfish grounds lessee in retaliation for (A) such employee's  
413 disclosure of information to an employee of the leasing agency  
414 concerning information involving the state shellfish grounds lease, or  
415 (B) such employee's testimony or assistance in any proceeding under  
416 this section.

417 (2) (A) Not later than ninety days after learning of the specific  
418 incident giving rise to a claim that a personnel action has been  
419 threatened or has occurred in violation of subdivision (1) of this  
420 subsection, an employee of a state shellfish grounds lessee or the  
421 employee's attorney may file a complaint against the state shellfish  
422 grounds lessee concerning such personnel action with the Chief  
423 Human Rights Referee designated under section 46a-57. Such  
424 complaint may be amended if an additional incident giving rise to a  
425 claim under this subdivision occurs subsequent to the filing of the  
426 original complaint. The Chief Human Rights Referee shall assign the  
427 complaint to a human rights referee appointed under section 46a-57,  
428 who shall conduct a hearing and issue a decision concerning whether  
429 the officer or employee taking or threatening to take the personnel  
430 action violated any provision of this subsection. The human rights  
431 referee may order a state shellfish grounds lessee to produce (i) an  
432 employee of such lessee to testify as a witness in any proceeding under  
433 this subdivision, or (ii) books, papers or other documents relevant to  
434 the complaint, without issuing a subpoena. If such state shellfish  
435 grounds lessee fails to produce such witness, books, papers or  
436 documents, not later than thirty days after such order, the human  
437 rights referee may consider such failure as supporting evidence for the  
438 complainant. If, after the hearing, the human rights referee finds a

439 violation, the referee may award the aggrieved employee  
440 reinstatement to the employee's former position, back pay and  
441 reestablishment of any employee benefits for which the employee  
442 would otherwise have been eligible if such violation had not occurred,  
443 reasonable attorneys' fees and any other damages. For the purposes of  
444 this subsection, such human rights referee shall act as an independent  
445 hearing officer. The decision of a human rights referee under this  
446 subsection may be appealed by any person who was a party at such  
447 hearing, in accordance with the provisions of section 4-183.

448 (B) The Chief Human Rights Referee shall adopt regulations, in  
449 accordance with the provisions of chapter 54, establishing the  
450 procedure for filing complaints and noticing and conducting hearings  
451 under subparagraph (A) of this subdivision.

452 (3) As an alternative to the provisions of subdivision (2) of this  
453 subsection, an employee of a state shellfish grounds lessee who alleges  
454 that a personnel action has been threatened or taken may, after  
455 exhausting all available administrative remedies, bring a civil action in  
456 accordance with the provisions of subsection (c) of section 31-51m.

457 (4) In any proceeding under subdivision (2) or (3) of this subsection  
458 concerning a personnel action taken or threatened against any  
459 employee of a state shellfish grounds lessee, which personnel action  
460 occurs not later than two years after the employee first transmits facts  
461 and information to an employee of the leasing agency concerning the  
462 state shellfish grounds lease, there shall be a rebuttable presumption  
463 that the personnel action is in retaliation for the action taken by the  
464 employee under subdivision (1) of this subsection.

465 Sec. 10. Subsection (a) of section 1-123 of the general statutes is  
466 repealed and the following is substituted in lieu thereof (*Effective from*  
467 *passage*):

468 (a) The board of directors of each quasi-public agency shall annually  
469 submit a report to the Governor and the Auditors of Public Accounts  
470 and two copies of such report to the Legislative Program Review and

471 Investigations Committee. Such report shall include, but not be limited  
472 to, the following: (1) A list of all bond issues for the preceding fiscal  
473 year, including, for each such issue, the financial advisor and  
474 underwriters, whether the issue was competitive, negotiated or  
475 privately placed, and the issue's face value and net proceeds; (2) a list  
476 of all projects other than those pertaining to owner-occupied housing  
477 or student loans receiving financial assistance during the preceding  
478 fiscal year, including each project's purpose, location, and the amount  
479 of funds provided by the agency; (3) a list of all outside individuals  
480 and firms receiving in excess of five thousand dollars in the form of  
481 loans, grants or payments for services, except for individuals receiving  
482 loans for owner-occupied housing and education; (4) a balance sheet  
483 and operating statement showing all revenues and expenditures; (5)  
484 the cumulative value of all bonds issued, the value of outstanding  
485 bonds, and the amount of the state's contingent liability; (6) the  
486 affirmative action policy statement, a description of the composition of  
487 the agency's work force by race, sex, and occupation and a description  
488 of the agency's affirmative action efforts; and (7) a description of  
489 planned activities for the current fiscal year. Not later than thirty days  
490 after receiving copies of such report from the board of a quasi-public  
491 agency, the Legislative Program Review and Investigations Committee  
492 shall prepare an assessment of whether the report complies with the  
493 requirements of this section and shall submit the assessment and a  
494 copy of the report to the joint standing committee of the General  
495 Assembly having cognizance of matters relating to the quasi-public  
496 agency.

497 Sec. 11. Subsection (h) of section 38a-1051 of the 2016 supplement to  
498 the general statutes is repealed and the following is substituted in lieu  
499 thereof (*Effective from passage*):

500 (h) The commission shall be within the [Office of the Healthcare  
501 Advocate] Insurance Department for administrative purposes only.

502 Sec. 12. (NEW) (*Effective October 1, 2016*) For the purposes of this  
503 section, "state agency" means any department, board, council,



504 commission, institution or other executive branch agency of state  
 505 government, including, but not limited to, each constituent unit and  
 506 each public institution of higher education. On and after October 1,  
 507 2016, no state agency shall make a payment to an employee resigning  
 508 or retiring from employment with such state agency for the purposes  
 509 of avoiding costs associated with potential litigation or pursuant to a  
 510 nondisparagement agreement unless such payment is made pursuant  
 511 to (1) a settlement agreement entered into by the Attorney General on  
 512 behalf of the state agency, or (2) an authorization by the Governor  
 513 pursuant to section 3-7 of the general statutes.

514 Sec. 13. Sections 4a-80, 6-33, 6-33a, 6-36, 6-38j and 6-38l of the  
 515 general statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	2-90(e)
Sec. 2	<i>from passage</i>	4-33a
Sec. 3	<i>July 1, 2016</i>	4-215
Sec. 4	<i>October 1, 2016</i>	1-101pp
Sec. 5	<i>October 1, 2016</i>	4-37f(8)
Sec. 6	<i>October 1, 2016</i>	4-37g(b)
Sec. 7	<i>from passage</i>	10a-109n(c)(3)
Sec. 8	<i>from passage</i>	2-90b
Sec. 9	<i>October 1, 2016</i>	4-61dd
Sec. 10	<i>from passage</i>	1-123(a)
Sec. 11	<i>from passage</i>	38a-1051(h)
Sec. 12	<i>October 1, 2016</i>	New section
Sec. 13	<i>from passage</i>	Repealer section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes technical changes to the reporting responsibilities of the State Auditors which has no fiscal impact.

House "A" removes the requirement that state agencies using state funds for a contract with a third-party administrator to annually report to the Commissioner of Revenue Services a list of all persons paid by said contractor. This will not result in a fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

---

**OLR Bill Analysis****sHB 5247 (as amended by House "A")\******AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.*****SUMMARY:**

This bill makes numerous changes to statutes concerning government administration. Among other things, it does the following:

1. allows the auditors of public accounts to (a) delay a full report of certain misuses of state and quasi-public agency funds until the subject agency completes its investigation into those activities and (b) permit aggregate reporting by state and quasi-public agencies to the auditors of these activities (§§ 1-2);
2. requires the auditors to notify the Government Administration and Elections (GAE) Committee whenever state and quasi-public agencies fail to notify them of certain misuses of state funds (§ 2);
3. expands who must report certain suspected ethics violations to the Office of State Ethics (OSE) to include state agencies' human resources directors (§ 4);
4. limits the circumstances under which the Office of Policy and Management (OPM) secretary may waive competitive bidding requirements for certain personal services agreements (§ 3);
5. requires the OPM secretary to notify the auditors whenever he receives a request from a state agency for a sole source procurement of certain audit services (§ 3);
6. allows the auditors of public accounts to conduct a full audit of

a state agency foundation that did not have its own audit completed (§§ 5-6);

7. subjects probate courts to the state's whistleblower law (§ 9);
8. requires executive branch agencies to receive approval from the attorney general or governor before making certain payments to departing state employees (§ 12); and
9. eliminates a reporting requirement associated with purchases of goods and services and leases of real or personal property (§ 13).

The bill also requires the auditors to audit biennially, rather than annually, reimbursements from the Bradley Enterprise Fund to the Department of Emergency Services and Public Protection; the reimbursements support State Police patrols at Bradley Airport (§ 8). It requires quasi-public agencies to include an operating statement in their annual report to the governor, auditors of public accounts, and the Program Review and Investigations (PRI) Committee; current law requires that they include a balance sheet only (§ 10).

The bill places the Commission on Health Equity within the Insurance Department for administrative purposes only; under current law, the commission is within the Office of the Healthcare Advocate for administrative purposes only (§ 11). Lastly, it (1) makes technical changes to a statute concerning UConn's awarding of construction contracts (§ 7) and (2) repeals obsolete statutes concerning sheriffs (§ 13).

\*House Amendment "A" (1) modifies the provisions on (a) the auditors' ability to delay the reporting of certain misuses of funds and (b) payments to departing employees, (2) eliminates the reporting requirement associated with purchases and leases and removes a provision in the underlying bill that expanded this requirement, and (3) makes a technical change.

EFFECTIVE DATE: Upon passage, except that provisions affecting (1) whistleblowers, foundation audits, ethics reporting, and payments to departing employees are effective October 1, 2016 and (2) personal service agreement waivers and audit services procurements are effective July 1, 2016.

## **§§ 1-2 & 4 — REPORTS OF CERTAIN ACTIVITIES**

### ***Misuse of State Funds***

Under current law, the auditors of public accounts must immediately report, to the governor, comptroller, House and Senate clerks, PRI Committee, and attorney general, any actual or contemplated (1) unauthorized, illegal, irregular, or unsafe handling or expenditure of state agency funds or (2) breakdowns in the safekeeping of any other state agency resources. The bill extends these requirements to quasi-public agency funds and resources.

By law, boards of trustees of state institutions, state agency heads, boards, commissions, other state agencies responsible for state property and funds, and quasi-public agencies must promptly notify the auditors of public accounts and the comptroller of any misuses of state funds described above. The bill allows the auditors to permit aggregate reporting of these matters in a manner and schedule determined by the auditors. It also allows the auditors, in cases where a state or quasi-public agency is still investigating such a matter and subject to the attorney general's approval, to permit the agency a reasonable period of time to conduct the investigation before the auditors notify the governor, comptroller, House and Senate clerks, and PRI Committee. The auditors must immediately notify the attorney general of such a delay.

The bill requires the auditors to notify the GAE Committee whenever state or quasi-public agencies fail to notify them of the misuses of state funds described above. The auditors must notify the committee within 30 days after discovering the failure. The committee may hold a public hearing and require the agency or quasi-public agency head to appear at the hearing to explain the reasons for failing

to notify the auditors.

#### **§ 4 — Reports of Suspected Ethics Violations**

The bill requires any person in charge of a state agency's human resources to report to OSE when he or she reasonably believes that a person has violated the Code of Ethics for Public Officials or any law or regulation concerning ethics in state contracting. Existing law requires commissioners, deputy commissioners, state or quasi-public agency heads or deputies, and state agency procurement and contracting heads to make such a report to OSE.

#### **§ 3 — PERSONAL SERVICES AGREEMENTS**

##### ***Waivers***

The bill limits the services (i.e., "qualifying services") for which the OPM secretary may waive competitive bidding requirements for personal services agreements (PSAs). It limits qualifying services to (1) those for which the cost of a competitive selection outweighs the benefits, as documented by the agency; (2) proprietary services; (3) services to be provided by a contractor mandated by the general statutes or a public or special act; and (4) emergency services. Under current law, qualifying services may include other types of services beyond these four categories, as determined by the secretary.

By law, PSAs costing more than \$20,000 or lasting for more than one year must be based on competitive negotiation or competitive quotations unless the purchasing agency applies to the OPM secretary for a waiver and the secretary grants the waiver. Additionally, PSAs that are expected to (1) last for more than one year or (2) cost more than \$50,000 must be approved by the OPM secretary before the agency begins the solicitation process. Agencies must also (1) follow OPM standards when entering into a PSA and (2) receive the secretary's approval for certain amendments to PSAs.

##### ***Audit Services***

The bill requires the OPM secretary to notify the auditors of public accounts whenever he receives a request for a sole source purchase for

audit services that cost more than \$20,000, but do not exceed \$50,000. He must allow the auditors to review the application and advise him on whether the services are necessary and, if so, could be provided by the auditors. Under existing law, the secretary must allow the auditors to review requests for audit services PSAs that cost more than \$50,000.

## **§§ 5 & 6 — FOUNDATION AUDITS**

The law requires that state agency foundations (i.e., nonprofit entities established for fundraising purposes) be audited at specified times by an independent certified public accountant. The bill requires that these audits be completed, and copies submitted to the attorney general and state agency's executive authority, within six months after the audited fiscal year ends. Current law does not establish a submission deadline. The bill allows the auditors of public accounts to conduct a full audit of a foundation that did not have its own audit completed by the six-month deadline.

## **§ 9 — WHISTLEBLOWING**

The bill subjects probate courts to the state's whistleblower law. Under current law, the whistleblower provisions apply to the Office of Probate Court Administration, but not individual probate courts.

Generally, the bill does the following:

1. requires the auditors of public accounts to review whistleblower complaints made against probate courts and report any findings or recommendations to the attorney general;
2. requires the attorney general to conduct any investigation he deems proper and report any findings to the probate court administrator and any matters involving criminal activity to the chief state's attorney;
3. prohibits probate court officers and employees from retaliating against a probate court employee who files a whistleblower complaint;

4. allows a probate court employee who believes he or she was retaliated against to either (a) file a retaliation complaint with the Commission on Human Rights and Opportunities or (b) bring a civil action; and
5. requires each probate court to post a notice of the whistleblower law in a conspicuous location.

## **§ 12 — PAYMENTS TO DEPARTING EMPLOYEES**

The bill prohibits executive branch agencies, boards, and commissions, including the constituent units of higher education, from making a payment to a departing employee that is intended to avoid litigation costs or is pursuant to a nondisparagement agreement unless the payment is (1) made pursuant to a settlement agreement the attorney general enters into on the agency's behalf or (2) the governor, upon the attorney general's recommendation, authorizes to settle a disputed claim by or against the state.

## **§ 13 — ELIMINATED REPORTING REQUIREMENT**

The bill eliminates a requirement that each public agency that purchases goods or services or leases real or personal property provide, annually by August 1, the revenue services commissioner with a list of all persons who provided goods or services or leased real or personal property to the agency. It also eliminates a requirement that the agency collect the contractor's federal Social Security account number or federal employee identification number, or both, if available, or the reasons why they are unavailable.

## **BACKGROUND**

### ***Releated Bills***

sHB 5228 (File 718), which the House passed, also repeals the reporting requirements associated with goods, services, and leases, effective July 1, 2016.

SB 214 (file 547), which the Senate passed, also subjects probate courts to the state's whistleblower law.



**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 0 (02/29/2016)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/06/2016)